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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,782	02/23/2000	Michael Krysiak		3795

7590

04/04/2002

Ohlip M Weiss  
Weiss & Weiss  
500 Old Country Road Suite 305  
Garden City, NY 11530

EXAMINER

NGUYEN, SON T

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/510,782

Applicant(s)

KRYSIAK ET AL.

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*pmf*

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,4-6,8,9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle (US 5,916,027) in view of Morgan (US 6,029,395) and Thomas (US 4,067,140).

For claims 1 & 4, Spittle discloses a granulation method (col. 3, lines 28-30) for creating mulch comprising the steps of adding paper fibers to a mixer (col. 2, line 50 and col. 3, lines 6-13); adding NPK fortifiers before the mixer (col. 2, line 53 and col. 3, lines 16-17); mixing the paper fibers and NPK into a mixture and spraying a fine mist as the mixture is agitated (col. 3, lines 18-22); and drying contents of the mixer (see col. 3, lines 18-30). However, Spittle is silent about using a pin mixer which performs the step of mixing/tumbling, and a binding agent. Thomas teaches mulch and process of making the same in which he employs a drum granulator (rotating drum) to mix and tumble the ingredients in the composition together (col. 1, lines 30-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a drum granulator (rotating drum) as taught by Thomas to mix the ingredients in the mulch of Spittle to assure uniform blend of the ingredient in the mulch. Thomas doesn't indicate that his rotating drum is a pin mixer. However, it would have been an obvious

substitution of functional equivalent to substitute the rotating drum of Spittle as modified by Thomas with a pin mixer as claimed by applicant, since it would perform the same function recited by the applicant; i.e. to perform the steps of mixing and tumbling ingredients in a mulch so as to produce a uniform mulch composition. Morgan teaches a mulch making method in which he employs a binding agent in his mulch mix to hold other elements, such as paper fibers and granules, in the mix together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a binding agent as taught by Morgan in the mulch mix of Spittle to hold elements in the mix together.

For claim 5, Spittle as modified by Thomas and Morgan are silent about employing a pin mixer having a double helix pin arrangement. In addition to the functional equivalent statement in the above, it would have been an obvious matter of choice to one having ordinary skill in the art at the time the invention was made to use any type of pin mixer such as one with a double helix pin arrangement to mix the mulch of Spittle as modified by Thomas and Morgan, depending on cost and how well one wishes to blend the mulch mixture together for his/her intended use.

For claim 6, Spittle as modified by Thomas and Morgan (emphasis on Spittle) further discloses the paper fibers comprises a by-product of a paper making process (col. 3, lines 6-14).

For claim 8, Spittle as modified by Thomas and Morgan discloses a granulated mulch product made by mixing and tumbling operation as stated in the above.

For claim 9, Spittle as modified by Thomas and Morgan (emphasis on Spittle) further discloses the step of performing a size reduction operation on the paper fibers prior to adding the fibers to the mixer (col. 3, lines 6-15).

3. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Thomas and Morgan as applied to claim 1 above, and further in view of Moore (US 5,266,097). Spittle as modified by Thomas and Morgan is silent about employing a pan pelletizer in place of the pin mixer. Moore teaches a fertilizer method and composition which he mixes the ingredients in the composition in a pan mixer until the composition formed into a spherical granules (see example 1). It would have been an obvious matter of choice to one having ordinary skill in the art at the time the invention was made to employ any type of known mixer such as a pan mixer to make pellets/granules as taught by Moore to mix the mulch of Spittle as modified by Thomas and Morgan, depending on cost factor and how well one wishes to blend the mulch mixture together for his/her intended use.

4. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Thomas and Morgan as applied to claim 1 above, and further in view of Clendinning et al. (US 3,901,838). Spittle as modified by Thomas and Morgan is silent about employing a paddle mixer in place of the pin mixer. Clendinning et al. teach a mulch film method and composition in which they employ a paddle mixer to mix the ingredients in the composition together (col. 13, lines 29-34). It would have been an obvious matter of choice to one having ordinary skill in the art at the time the invention was made to employ any type of known mixer such as a paddle mixer as taught by

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Clendinning et al. to mix the mulch of Spittle as modified by Thomas and Morgan, depending on cost factor and how well one wishes to blend the mulch mixture together for his/her intended use.

5. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Thomas and Morgan as applied to claim 1 above, and further in view of Decker (US 5,806,445). Spittle as modified by Thomas and Morgan are silent about using sewage sludge in place of the paper fibers. Decker teaches in col. 2, lines 10-13, that sewage sludge is proven to be a very effective mulch media because it is plentiful, inexpensive, easy to handle and rich in nutrients. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute sewage sludge as taught by Decker for the paper fibers of Spittle as modified by Morgan in order to reduce cost and ease of handling and still produce an effective mulch.

#### ***Response to Arguments***

6. Applicant's arguments filed 3/13/02 have been fully considered but they are not persuasive. *Applicant argues that applicant's invention is different from that of Spittle because Spittle teaches a pressure compression extrusion product shown in col. 3, lines 18-27.* The examiner does not acknowledge this argued teaching in Spittle because no where in the Spittle reference teaches a pressure compression extrusion process. All lines 18-27 teaches are mainly that the mixture is pelletized into pellets 3/16 inch diameter and then the product is cooled and dry. As to where applicant comes up with pressure compression extrusion process is unknown because Spittle never stated that process in lines 18-27 or throughout the patent.

*Applicant argues that applicant's mulch is different from the prior arts because applicant employs mixing and tumbling steps by using known equipments to perform these two steps. In addition, applicant's mixer imports agitation forces on the contents of the mixer causing a tumbling, turbulent movement resulting in the mulch.* The steps of mixing and tumbling composition or mixture of mulch product are notoriously well known in the mulching industry. In addition, using known equipments such as a pin mixer, pan pelletizer, drum granulator, etc. to perform these two steps is obvious to one skill in the art depending on the user's preference to make a mulch product for his/her intended use. According to what is being claimed, applicant hasn't developed a new process of mulch making because as shown, all references have taught the process or method claimed by applicant. Spittle also teach agitation forces (col. 3, line 21) which is similar to what applicant is arguing above.

7. The following prior arts are made of record to provide the best available relevant examples of mulch process: Miller et al (3896585) teach tumble blender to mix the ingredients in their mulch.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 8:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. The fax number of the Art Unit is (703)-306-4195. Any inquiry of a general nature or relating to the


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status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

Son T. Nguyen, *STN*  
Patent Examiner, GAU 3643  
March 26, 2002

  
PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

4/2/02